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6 **IN THE UNITED STATES DISTRICT COURT**
7 **IN AND FOR THE DISTRICT OF ARIZONA**

8 Labor Smart, Inc.,

9 Plaintiff,

10 v.

11 Jason and Melissa Tucker,

12 Defendants.

13 And related Counterclaims
14 and Third-Party Claims.

Case No. 2:22-cv-00357-PHX-JJT

**[PROPOSED] ORDER
GRANTING THE PARTIES'
STIPULATION TO RESOLVE
OUTSTANDING MOTIONS/
PLEADING ISSUES**

15 Based on the parties' Stipulation to Resolve Outstanding Motions/Pleading Issues
16 and good cause appearing,

17 **IT IS HEREBY ORDERED:**

18 1. The Clerk shall set aside the Default against NextGen Beverages, LLC, and
19 the Motion to Set Aside (Doc. 173) is now deemed moot;

20 2. Labor Smart, Inc.'s Motion to Dismiss (Doc. 158) is withdrawn, without
21 prejudice to Labor Smart making additional motion(s) upon an amended pleading by the
22 Tucker Claimants, and the Tuckers' Response to the Motion to Dismiss (Doc. 174) is
23 now deemed moot;

24 3. The Tuckers shall file their First Amended Counterclaims and Third-Party
25 Claims by Friday, September 27, 2024, which shall supersede the Counterclaims and
26 Third-Party Claims previously stated (Doc. 148). However, the Tuckers' Answer to the

1 claims against them, stated in Doc. 148, shall remain in effect as the operative Answer;
2 and

3 4. Because a First Amended Counterclaims and Third-Party Complaint will
4 be filed, no Third-Party Defendant will be required to file an Answer or other responsive
5 pleading until 20 days after the amendment is on file.

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7 Dated this _____ day of September, 2024.

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10 _____
11 Honorable John J. Tuchi
12 United States District Judge
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